

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LAKENA N. GAMBLE o/b/o Z.L.T.,

Plaintiff,

v.

**5:16-CV-636
(FJS/TWD)**

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

APPEARANCES

LAKENA N. GAMBLE
Syracuse, New York 13205
Plaintiff *pro se*

OF COUNSEL

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF REGIONAL GENERAL
COUNSEL, REGION II**
26 Federal Plaza, Room 3904
New York, New York 10278
Attorneys for Defendant

JOSHUA L. KERSHNER, ESQ.

SCULLIN, Senior Judge

ORDER

Plaintiff filed this action, on behalf of her son Z.L.T., against Defendant pursuant to 42 U.S.C. § 405(g), 1383(c)(3). *See* Dkt. No. 1. Although the Court provided her with several opportunities to do so, Plaintiff did not file a brief. *See* Dkt. Nos. 12, 13, 15. Defendant, however, did file a brief, *see* Dkt. No. 16, as well as the Social Security Administrative Record, *see* Dkt. No. 8.

In an Order and Report-Recommendation dated September 11, 2017, Magistrate Judge

Dancks recommended that this Court affirm Defendant's decision, grant Defendant's motion for judgment on the pleadings, and dismiss the complaint. *See, generally*, Dkt. No. 19. Plaintiff did not file any objections to Magistrate Judge Dancks despite being advised that her failure to do so within the required time frame would preclude appellate review. *See id.* at 27 & n.5 (citations omitted).

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendations for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting its review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

As a preliminary matter, the Court notes that, despite Plaintiff's failure to file a brief, Magistrate Judge Dancks, pursuant to General Order 18, considered the merits of this matter and "examined the record to determine whether the ALJ applied the correct legal standards and reached a decision based on substantial evidence" and, in addition, in light of Plaintiff *pro se* status, consider[ed] . . . the merits . . . with the special solicitude that the Second Circuit mandates for *pro se* litigants." *See* Dkt. No. 19 at 15-16.

Having completed its review of Magistrate Judge Dancks' very thorough analysis of the merits of Plaintiff's claims and finding no error or manifest injustice in either her analysis or recommendations with regard to those claims, the Court hereby

ORDERS that Magistrate Judge Dancks' September 11, 2017 Order and Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Defendant's decision is **AFFIRMED**; and the Court further

ORDERS that Defendant's motion for judgment on the pleadings, *see* Dkt. No. 16, is **GRANTED**; and the Court further

ORDERS that Plaintiff's complaint is **DISMISSED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendant and close this case; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: September 29, 2017

Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge